

Submitted	<u>November 2, 2005</u>
Resubmitted	<u>November 16, 2005</u>
Approved	<u>As Written</u>
Date	<u>November 16, 2005</u>

**MINUTES OF THE ROCKVILLE PLANNING COMMISSION
MEETING NO. 16-05
Wednesday, September 14, 2005**

The City of Rockville Planning Commission convened in regular session in the Mayor and Council Chambers at 7:00 p.m., Wednesday, September 14, 2005.

PRESENT

**John Britton, Chair
Steve Johnson Frank Hilton
Gerald Holtz Sarah Medearis
Kate Ostell Robin Wiener**

Present: Art Chambers, Director of Community Planning & Development Services
Burt Hall, Director, Recreation and Parks
Jim Wasilak, Chief of Planning
Sondra Block, Assistant City Attorney
Wayne Noll, Assistant, City Forester
Rebecca Torma, Planner II
Cindy Kebba, Planner II (HDC)
Sandra Marks, Planner II
Robin Ziek, Planner II (HDC)
Chris Heckhaus, Recreation and Parks
Craig Daly, Department of Public Works

Commissioner Britton stated that on his behalf and his colleagues he would like to express his deepest empathy and sorrow for their neighbors down in New Orleans and surrounding areas for the trauma they are going through. He said he hopes that our neighbors in North Carolina, who are now experiencing Hurricane Ophelia, will not go through the same problems and lack of attention that were seen in the last couple of weeks.

Commissioner Britton welcomed a new member to the Commission, Ms. Sarah Medearis, who was just sworn in this evening. Ms. Medearis was formerly on the Science Technology and Environmental Committee. Therefore, she is no stranger to events in Rockville and being part of the Rockville scene.

RECOMMENDATION TO THE MAYOR AND COUNCIL

Planned Residential Unit Exploratory Application PRU2005-00022, Chestnut Lodge

The applicant is requesting to construct 36 single family detached dwellings, the rehabilitation of the existing "Little Lodge" for a single family dwelling, and construction of seven condominium units in the Chestnut Lodge building, in the R-S Zone at 500 West Montgomery Avenue.

Ms. Torma presented the staff report. Ms. Torma stated that this application is for 44 dwelling units on 20.43 acres and is currently zoned R-S (Residential Suburban). The applicant is proposing 36 single-family homes with detached two-car garages in the rear portion of the site. Seven condominiums are would be rehabilitated in the new portion of the Chestnut Lodge building. In addition, the Little Lodge would be converted into one single-family dwelling unit, the Icehouse and Stable would be reconstructed as accessory structures. Ms. Torma stated that the applicant is proposing to donate Frieda's Cottage to Peerless Rockville as an eleemosynary institution.

Commissioner Britton clarified that two letters have been received from two homeowners associations, Thirty Oaks Home Owners Association and Rose Hill Homeowners Association. Both HOAs identified issues such as stormwater runoff into adjacent properties, increased traffic on West Montgomery Avenue, cut-through pedestrian traffic across yards to reach West Montgomery Avenue, power lines and telephone poles along the property's western border with the adjacent Thirty Oaks property must be removed, and ownership of the front 5 acres.

Jody Kline, Attorney, presented the applicant's request. He stated that this is a unique project that demonstrates the merits of this proposed development. Mr. Kline discussed issues with the right-of-way width. He noted that the applicant feels constrained by the right-of-way that the City has historically requested. He said that they would relax the front yard setback requirement to be able to allow the house to be as the applicant has proposed and, yet, they could still achieve their right-of-way as they believe is appropriate for this situation. Mr. Kline presented exhibits illustrating three alternative proposals for the right-of-way. Mr. Kline further discussed their modifications and waivers.

Morton Levine, principal owner of the property discussed the maintenance and design of sidewalks, maintenance of the parkland, and PUE.

The following are the Planning Commission's recommendations regarding the modifications and waivers discussed at the Planning Commission's last meeting.

1. Parkland Dedication

The Commission considered the lack of dedication of parkland to the City as required in the Zoning Ordinance when a PRU has multi-family units. Staff stated that they interpreted the Zoning Ordinance as not permitting a waiver of this limitation. They also stated that even if it could be waived, they would not recommend doing so. Staff thought the dedication of the parkland would be a public amenity not just to the homeowners of Chestnut Lodge, but to the surrounding neighbors as well. The proposed dedication of land would remain as it currently is today and would be a "passive" park in the West End. In addition, if the applicant were to dedicate the parkland at this time, the City would

avoid the possibility that this area would later be taken over by the City for maintenance because of the high cost to the HOA. Additionally, staff stated that if the applicant would like more maintenance than the City would provide, they are willing to have an agreement to do so. The applicant has requested that the parkland dedication be waived and the Homeowners Association maintains the parkland. The applicant stated that the Homeowners Association fees including the front park area would be approximately \$392 per lot per month. The Commission recommended that the applicant not be required to dedicate parkland to the City, but that a conservation and public access easement must be applied to the property.

2. Right-of-Way Width

The Commission discussed the right-of-way location and width and the location of the public utility easement along the internal roadway not in the historic area. Staff had requested that the applicant provide 52 feet of right-of-way, which would include the roadway, a seven-foot tree lawn, a five-foot sidewalk, and one-foot behind the sidewalk. Behind the right-of-way would be the 10-foot public utility easement (PUE). However, as the applicant has shown on their plans, the proposed stonewalls would be located in this easement, a condition which is not permitted by the City. The applicant originally suggested a 27.33-foot right-of-way, which was located from back of curb to back of curb. Outside of this would be the 10-foot PUE. After numerous discussions with the applicant, the compromise, which staff and the applicant agreed to, the Commission recommends a 40-foot right-of-way that includes only the roadway and the seven-foot tree lawn. The 10-foot PUE would be behind the tree lawn and include the sidewalks to be maintained by the HOA.

3. Modified Side Yard Setbacks

The Commission discussed the applicant's request for reduced side yards for nine of the lots, from 11 feet as permitted in the R-90 Zone to 10 feet. This modification would permit the applicant greater flexibility to provide for a variety of homes on the same lot and prevent the same house from being constructed on adjacent lots.

Staff did not recommend approval, since the applicant would be permitted to use the permitted encroachments in the Zoning Ordinance. Therefore, staff suggested a condition that would permit bay windows, vestibules or balconies that are no greater than 10 feet in width to project no more than three feet into the side yard. In addition, houses could be no closer than 19 feet at the closest point. The Commission recommended that this condition be included in the recommendation.

4. Curbs in the Historic District

When the Historic District Commission met on July 21, 2005, they discussed a "modified" curb design for the portion of internal road that is located in the historic district. They had stated that they recommended a "modified curb design" because it would be more sensitive to the historic setting than a typical curb and gutter configuration. In addition, the HDC stated that substantial landscaping also was not recommended along the road. Staff had recommended a condition for a standard curb and gutter along the entire road including the historic portion. The applicant had suggested a "modified" curb that was flush with the asphalt because they felt that any

curb and gutter might destroy the trees. The Planning Commission recommended a curb that would prevent vehicles from driving on the grass and tree roots.

5. Frieda's Cottage

The Commission discussed the use of Frieda's Cottage as an eleemosynary institution, museum or a residential use. The applicant originally suggested that the building would be donated to Peerless Rockville along with \$100,000 to rehabilitate the Cottage. However, the money donated to Peerless Rockville would not be sufficient to renovate the building completely. Therefore, they are asking that the building be used for a residential use. The City Attorney stated that they were not sure if the additional residential unit was permitted or if the applicant would have to remove one of the new units. Therefore, the Commission recommended that, if legally possible, Frieda's Cottage should be allowed to be used as a residential unit.

Eileen McGuckian, Executive Director of Peerless Rockville, discussed Frieda's Cottage. Ms. McGuckian stated that to renovate the Cottage for a public use would destroy its architectural character. After discussing the matter, they decided to make that a residential use and the HDC concurred. Residential use is the least intrusive to the integrity of the house. Museum use would require a larger number of parking spaces and generate more traffic than a residential use, thus impacting the neighborhood more. This house would not be counted as a NEW residence. Ms. McGuckian referred to page 3 of the staff report and corrected the statement that said that Peerless Rockville could not maintain Frieda's Cottage. Peerless Rockville is prepared to accept title to Frieda's Cottage and to restore it to the time when she lived there. Peerless Rockville appeals for this to be a residential parcel, but that it not diminish the total number of units permitted to the owner under the Master Plan. She noted that this use would be open to the public on a limited basis in the original residential setting. If necessary, Peerless could store Chestnut Lodge's archives in the basement.

Mr. Kline explained the situation. He said the applicant is prepared to donate Frieda's Cottage to Peerless Rockville with \$100,000 to assist in rehabilitating the Cottage. Mr. Kline noted that they have concerns if the residential use prejudices the construction of one of the proposed houses. After discussing this matter with Ms. McGuckian, Mr. Kline stated that if they would carve out 9,000 square feet, it could be part of the 44 dwelling units on the property.

6. Thomas Street Improvements

Staff recommended that the applicant make improvements along Thomas Street including curb and gutter and sidewalks. The Comprehensive Transportation Review (CTR) requires that any applicant improve the frontage of their property with sidewalk and curb and gutter, when it is substandard. Since the applicant did not want to remove trees along their side of Thomas Street, staff required the applicant to provide sidewalk, and curb and gutter along the east side of Thomas Street, a crosswalks to transfer pedestrian traffic over to the west side of Thomas Street along the frontage of Frieda's Cottage and the three new houses. In addition, staff required the applicant to provide curb and gutter along the entire frontage of their site. The applicant had agreed to provide sidewalk and curb and gutter along their side of Thomas Street and the crosswalk in the street,

however, they did not want to install the sidewalk and curb and gutter along the east side of Thomas Street. The Commission recommended that the applicant should have to provide the sidewalk as well as curb and gutter along the east side of Thomas Street, the full-recommended improvements.

7. Impervious Surface

The Commission requested that the applicant provide the impervious surface calculations for the existing development and new development. The applicant stated that they did not have those calculations, but believed it might be similar since there are currently many buildings and paved areas on the site. The applicant also stated that they would provide these calculations for the Mayor and Council as well as when the Detailed Application is presented to the Planning Commission for review.

8. Stormwater Management

The Commission also discussed stormwater management on the site and the effects other surrounding developments. Staff stated that a concept stormwater plan has been approved, however, the details of the plan would be reviewed more carefully including reviewing the system outside of this development at the detailed engineering stage. In addition, staff stated that the applicant would have to meet the requirements for stormwater management including the retrofit of the pond in Rose Hill in order to develop the site. The applicant also stated that after the retrofit of the pond and with the Rose Hill neighborhood's consent, they would like to turn this pond over to the City.

The Commission also discussed the possible runoff onto the surrounding homes in Rose Hill. Staff stated that the applicant would have to build the stormwater system as shown on the approved plans at the detailed engineering stage. The Commission informed staff that they would like to review this more closely when the detailed application returns.

9. Connections to Rose Hill

Two Homeowners Associations wrote letters to the Commission discussing traffic circulation between this development, other surrounding developments and West Montgomery Avenue. The Thirty Oaks HOA suggested a connection to the Rose Hill development. They thought a connection to Rose Hill would result in less congestion on West Montgomery Avenue. However, the Rose Hill HOA requested that no connection between their development and the Chestnut Lodge development be provided. The applicant had previously met with the Rose Hill HOA and proposed an emergency access only to Autumn Wind Way. The Commission, however, suggested that the Mayor and Council rethink the lack of a connection in light of the resulting creation of isolated communities.

10. Buffer Areas

The Commission was concerned that the proposed homes would tower over the surrounding homes. The applicant stated that they would be providing a 10-foot landscape buffer around the new homes along Tall Grass Court and along Autumn Wind Way in addition to the existing 10-foot buffer on Rose Hill. They also stated that along the proposed homes that are adjacent to Tall Grass Court, which would have a five-foot high retaining wall with a 10 foot wide landscape strip and an additional nine-foot high

retaining wall in some areas. Along these retaining walls and on the landing above the first wall, the applicant is proposing to provide landscaping, which would be in a 10-foot buffer area. Additionally, the applicant will provide landscaping beyond that buffer with a tree preservation area at the level of the proposed homes. The Commission recommended a condition for the applicant to have a consistent landscape buffer around the perimeter of the development.

The Planning Commission also expressed concern that the grading would create visual problems for the existing homes. Staff stated that at that time, a condition has been included in the PRU that allows for the grading to be reviewed more broadly at the detailed application process.

In addition, the Commission discussed the construction traffic on West Montgomery Avenue. The Commission recommended that the staff create a condition for the construction phasing of the site and traffic patterns from the vehicles going into the site. This plan would be approved through the detailed application process.

The following citizens spoke:

1. Eileen McGuckian, Executive Director of Peerless Rockville stated that for three decades Peerless has worked with various owners of Chestnut Lodge to facilitate preservation, restoration, and reuse of their historic buildings. She noted that their approach to this PRU is very narrow; it is from the perspective of protecting and enhancing the history on this property. Ms. McGuckian summarized by stating that Peerless Rockville supports this project and noted that six of the seven historic structures on the property are proposed to be treated well. Peerless requests that Frieda's Cottage be approved as a residential use beyond the magic number of 44 units. Peerless is prepared to accept title to Frieda's Cottage and to the open space easement to assist with interpretive signage around the property and to help keep this project on track to preserve the historic buildings in a timely manner.
2. Patricia Woodward, 115 N. Van Buren Street stated that she was the head nurse at Chestnut Lodge in the early 60s to the middle 70s and she is a long time resident of the West End. She said she has been with the WECA when the first phase of the Lodge was discussed with Mr. Magruder and at Rose Hill when they were guests of the Bullards. Ms. Woodward said she feels that this a residential that is well planned and well thought out. The theme is of Old Rockville fitting into this last phase of Chestnut Lodge is particularly important for this historic setting. She said she is here tonight to present a petition. She read the petition that supports the dedication of 8 acres of the Chestnut Lodge property located along West Montgomery Avenue as a permanent historical scenic vista, since the developer of Chestnut Lodge property is willing to create the 8 acres, the scenic vista, which will be owned and maintained by the Chestnut Lodge HOA. They oppose the use of taxpayer funds by the City of Rockville to acquire or maintain this land or any part of it as a public park. Ms. Woodward explained how they went into different neighborhoods to obtain signatures of residents. There will be more signatures at the Mayor and Council hearing on September 26.

Ms. Woodward questioned who suggested having the three new houses facing on Thomas Street in this development. She said she has nothing against Thomas Street, but questioned their address. The potential owners would be paying over a million dollars to be in this development. She said she and many others do not understand. She questioned whether the reason is because Thomas Street needs improvements. Mr. Kline explained the applicant felt that turning their backs to the residents on Thomas Street was not neighborly, so they agreed to have the fronts of the new houses match up the confronting houses across the street and, yet, not use those for access, which would be provided at the back of the houses. It is simply a matter of keeping the streetscape pattern and rhythm of the street and matching them up.

3. Seldon Higgins, vice president of the WECA. He said the citizens oppose the City taking ownership of any part of the front 8 acres of Chestnut Lodge property. They propose that covenants be enacted to maintain and protect the permanent historic scenic vista. Mr. Higgins stated that WECA opposes the use of taxpayer funds by the City to maintain any part of this land as a public park. He noted that they are also supporting the petition that supports the dedication of 8 acres of parkland to be owned and maintained by the Chestnut Lodge HOA.

4. Terry Schempp, 417 W. Montgomery Avenue directly across from the 8 acres of open space. He favors the applicants maintaining ownership of the parkland and opposes taxes going into the maintenance of the parkland.

In response to Commissioner Johnson, Mr. Schempp stated that he would not like to see the 8 acres as a public park. He said he has one concern with the only single access coming off Laird Street and West Montgomery Avenue for the entire community and more so during the construction process.

5. Craig Kay stated that he is a board member of Rose Hill HOA. He said he knows that the Commission received a draft letter from them. He said they have worked with Mr. Levine and there are certain conditions that they would like to have met, but they do support the project. Mr. Kay stated that they are concerned about the two SWM ponds and Mr. Levine has agreed to share the expense with the community and any retrofitting to the pond that borders his community. They are waiting for a final landscape plan to determine what species would be the landscape buffer that would surround the Chestnut Lodge community. There is a historic red barn that is part of the Chestnut Lodge community, Mr. Levine is going to be deeding that property over to the owners of the Rose Hill Mansion, who have successfully maintained their property, and there are plans to renovate that barn and make it a garage. Mr. Kay stated that their most important fact is that there will be no pass thru streets from Chestnut Lodge through Rose Hill as it would be an obvious pass through from West Montgomery Avenue to Great Falls Road and that would affect the traffic patterns. Mr. Kay said he heard that there would be three new homes facing Autumn Wind Way within their community and by the time Mr. Levine presented that to the community, it was no longer a proposal and they have no problem with that. They are excited by the architecture. The Rose Hill community supports the application. He noted that five homes are going to be affected by a landscape wall on Tall Grass Court. The Board would be open to opening up a dialogue

with those affected homeowners and perhaps they could meet with Mr. Levine if that were to help the effort and they would assist with that in any way.

6. Paul Newman, President of Thirty Oaks HOA stated recapped their concerns regarding cut-thru pedestrian traffic across private lawns, provide buffers and fences, increased traffic on West Montgomery Avenue, and storm water runoff. Mr. Newman stated that they are concerned about the City's ability to inspect and monitor the engineering activity during the process of development. He said they have less concern about the developer in particular and more concerned about the city process and their experience with their development. The City's engineering did not meet the required specifications. Mr. Newman stated that the HOA supports private ownership and maintenance of the front 8 acres, since Chestnut Lodge residents will enjoy the majority of benefits. Mr. Newman noted that rear yard setbacks compared to the other planned developments in the City such as King Farm, Falls Grove, are beautiful communities, but they are on tiny properties. The proposed houses do have back yards. He further discussed the parkland and that he is opposed to having the City own the parkland.

Mr. Kline discussed the applicant's concerns and asked to revise the language in three of the conditions regarding brick pavers in the new part of the subdivision, utilities and underground transformer vaults, and construction easements.

COMMISSION DISCUSSION:

The Commission discussed the language and conditions for the motion. Straw votes were taken on each of the issues that were discussed.

Commissioner Britton summarized the issues discussed this evening. He said that there were favorable recommendations for: 1) the side yard setbacks with the waiver for bay windows; 2) a rejection of the flush mounted curbs in the historic areas; 3) a positive recommendation for the 40-foot right-of-way with deletion of Condition 10 and reword Condition 20 with the deletion of a sentence that requires the concrete aprons and flexibility for the location of the transformers; 4) a favorable recommendation that the parkland going to the ownership of the HOA with conservation and public easement that guarantees passive greenspace with ongoing non-intrusive public access in perpetuity; 5) a positive recommendation that Frieda's Cottage would be residential if legally allowed or doable; 6) Thomas Street improvements as suggested by City staff; 7) landscape buffer surrounding the project, although not in front of the Thomas Street houses, with a scenic easement on private properties as necessary; 8) requirement for construction phasing plan at time of detailed application approval; and, 9) a suggestion to the Mayor and Council to rethink traffic circulation and access to the site.

Commissioner Johnson moved, seconded by Commissioner Wiener to approve Planned Residential Unit Exploratory Application PRU2005-00022, Chestnut Lodge per staff's recommendations and subject to the discussion and straw votes conducted. The motion passed on a vote of 6-1 with Commissioner Ostell opposing.

Map Amendment Application MAP2005-00093, Mayor and Council – to change the zoning of the Croydon Park pumphouse at 401 South Horners Lane from R-60 to R-60 (Historic District).

Ms. Ziek presented the staff report. Ms. Ziek noted that a request was put in jointly by Peerless Rockville and East Rockville Civic Association; it went before the Historic District Commission, which recommended designation as a single site historic district. Ms. Ziek stated that this map amendment will also be going to the Recreation and Parks Advisory Board next week. Ms. Ziek pointed out that one thing that might be of particular interest in terms of the environmental setting; the city owns Lots 9-16 plus Parcel 168, which is the original parcel that was purchased in 1896 for the construction of the Pump House. The other properties were bought as the water system for the City expanded. The HDC is only recommending the original parcel for the environmental setting. The Commission would only be involved with the changes and alterations within this particular parcel.

Commissioner Wiener commented that she may have to recuse herself because she was the President of the East Rockville Civic Association at the time when the letters came in regarding the Pump House. Commissioner Britton stated that if her position would cause a conflict then she should recuse herself. There were no objections.

The following citizens testified:

1. Eileen McGuckian, Executive Director of Peerless Rockville asked for a favorable recommendation.
2. Phyllis Marccucio stated that she was also President of East Rockville Citizens Association has been very involved in nominating the Pump House for historic designation and as someone who has lived across the street from the Pump House for 63 of its 109 years, she is delighted to hear that is a possibility and she hopes the Commission will recommend approval.

Commissioner Hilton moved, seconded by Commissioner Ostell to recommend approval of Map Amendment Application MAP2005-00093, Mayor and Council to the Mayor and Council per staff's recommendations. The motion passed unanimously.

REVIEW AND ACTION

Final Record Plat PLT2005-00450 Erik Search – for a two lot subdivision, Lots 28 and 29, Block 4, Rockville Park, located at 421 Reading Avenue (in the R-60 Zone)

Ms. Hall presented the staff report. Ms. Hall stated that the subject property is made up of four of the original Rockville Park lots. There are two tax account numbers, but the house goes from one onto the other. She said that what the applicant is proposing for subdivision is in keeping with the way that the tax accounts have been laid out for a long period of time. She said she could not obtain any deeds on the properties, but appears to her that one lot belonged to one person, one person bought the other lot and built an

addition onto the second lot. The important part of the story in that it is certainly the way the ownership would have appeared prior to 1957, which makes these qualifying undersized lots rather than ones that need a variance for approval. Since the time Rockville Park was created in 1890, one had to have two lots to make it buildable. The applicant is proposing is in keeping with other subdivisions to combine the lots to make them into a buildable lot by today's standards.

Commissioner Johnson said that he could not find any public alley. Ms. Hall replied that the applicant owns the house next door to these two lots. He said that the fences go directly into the alley, which was never abandoned.

Erick Search, applicant, presented his request. He explained the alley issue. He said that there is house on Joseph Street and it is being renovated; the driveway is located in a good portion of the alley. Mr. Search said he owns the house at 419 Reading Avenue, which is next to the property.

Commissioner Ostell asked for more clarification regarding the property.

Commissioner Holtz moved, seconded by Commissioner Wiener to approve Final Record Plat PLT2005-00450 Erik Search per staff recommendations. The motion passed unanimously.

ADJOURN

After further discussion, the meeting adjourned at 12:49 a.m.

Respectfully submitted,

Tyler Tansing, Commission Secretary